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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/927,606 | 08/09/2001 | Catherine O'Neill | | 8194 |

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EXAMINER

NEWHOUSE, NATHAN JEFFREY

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 01/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,606

Applicant(s)

O'NEILL, CATHERINE

Examiner

Nathan J. Newhouse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sidewall of the lid has not been shown in sufficient detail, the sidewall extending away from the top surface of the lid, the sidewall extending towards the top surface of the lid or the mounting member on the sidewall must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 10 is objected to because of the following informalities: in line 3 "comprising." should be replaced by --comprising:--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 13-14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 13-14 and 16 are rejected as these claims contain subject matter/limitations directed to the container lid, but the preamble of these claims and the

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independent claim 10 are directed to the subcombination of the resealable tab only.

Therefore, these claims are rejected as unclear and indefinite as to whether applicant is claiming the subcombination of the resealable tab only, or the combination of the resealable tab with the lid. For the purposes of formulating a rejection with respect the prior art, these claims are considered drawn to the subcombination as applicant's other claims are directed to the combination.

Claim 16, line 2 "said top surface" has no antecedent basis.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6, 10-16 and 23-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitko et al. '992 in view of Lu et al. '267.

Sitko et al. teaches a lid 10 with a top surface, a sidewall extending therefrom with means to engage 13(mount member) and snap on the cup. See column 2, lines 35-48. Sitko et al. further teaches an opening 16 covered by a resealable tab 30. See column 3, line 42 through column 4, line 2. Sitko et al. does not teach a food grade adhesive to attach the resealable tab.

Lu et al. teaches the use of polyurethane adhesive to attach/adhere a tape tab closure to beverage cans. The beverage cans can contain both pressurized(carbonated) or unpressurized contents. The polyurethane adhesive must

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be a food grade adhesive as this is the particular type of adhesive used by applicant. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to adhere the resealable tab 30 of Sitko et al. with a polyurethane adhesive as Lu et al. teaches that this type of adhesive will work on beverage cans of this type.

7. Claims 10-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds et al. '368 in view of Lu et al. '267.

Reynolds et al. teaches tab 13 which may be made of aluminum or rigid stiff plastic polystyrene. Reynolds et al. further teaches that different shape tabs may be used depending upon the beverage can the tabs are applied and/or the shape of the opening to be closed. See especially figure 6, showing round or oval tabs with protruding lifting members. Reynolds et al. does not teach the tab having a polyurethane adhesive to attach the tabs to a lid.

Lu et al. teaches the use of polyurethane adhesive to attach/adhere a tape tab closure to beverage cans. The beverage cans can contain both pressurized(carbonated) or unpressurized contents. The polyurethane adhesive must be a food grade adhesive as this is the particular type of adhesive used by applicant. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to adhere the resealable tab of Reynolds et al. with a polyurethane adhesive as Lu et al. teaches that this type of adhesive will work on beverage cans of this type.

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8. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clements '569 in view of Sitko et al. '992 and Lu et al. '267.

Clements teaches a beverage lid with a recess 30 to allow for a user's mouth to closely fit around a drinking opening 20. Clements does not teach a resealable tab to cover the opening and the tab being attached by polyurethane adhesive.

Sitko et al. teaches a lid 10 with a top surface, a sidewall extending therefrom with means to engage 13(mount member) and snap on the cup. See column 2, lines 35-48. Sitko et al. further teaches an opening 16 covered by a resealable tab 30. See column 3, line 42 through column 4, line 2. Lu et al. teaches the use of polyurethane adhesive to attach/adhere a tape tab closure to beverage cans. The beverage cans can contain both pressurized(carbonated) or unpressurized contents. The polyurethane adhesive must be a food grade adhesive as this is the particular type of adhesive used by applicant. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a resealable tab as taught by Sitko et al. to allow for opening/closing of the lid of Clements. Furthermore, it would have been obvious to one ordinary skill in the art at the time of the invention to adhere the resealable tab 30 of Sitko et al. with a polyurethane adhesive as Lu et al. teaches that this type of adhesive will work on beverage cans of this type.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Coy, Abere et al., Huntting, La Fever, Ohlsson et al., Lu '114 and Cornell teach similar resealable tabs for drinking containers similar to what applicant is claiming.

Derosé, Brochman and Langen teach food grade adhesive or polyurethane adhesive to attach resealable tabs to beverage containers.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email CustomerService3700@uspto.gov.

Any inquiry concerning the merits of the examination of the application from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

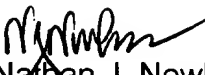
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

| | |
|---------------------------------|---|
| Allowed Files & Publication | (703) 305-8322 |
| Assignment Branch | (703) 308-9287 |
| Certificates of Correction | (703) 305-8309 |
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Nathan J. Newhouse
Primary Examiner
Art Unit 3727

December 30, 2002